

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION

UNITED STATES OF AMERICA	)	
	)	NO. 1:19-CR-00019
v.	)	
	)	Judge Crenshaw
JAMES L. CRABB	)	

**POSITION OF THE UNITED STATES**  
**REGARDING PRESENTENCE REPORT**

Comes now the United States, by and through its undersigned attorney, and submits its position regarding the Presentence Report, revised December 3, 2020 (the “PSR”). The United States represents the following objection to material information, sentencing classifications, sentencing guideline ranges, or policy statements contained in or omitted from the PSR:

The actual loss amount due to the fraud is \$3,493,391.61, which results in a sixteen (16)-level increase pursuant to U.S.S.G. § 2B1.1(b)(1)(I). (DE# 18, *Plea Agreement*, PageID# 58; PSR at p. 21 ¶ 73.) The PSR calculated the loss amount at \$7,000,000, reflecting an 18-level increase pursuant to U.S.S.G. § 2B1.1(b)(1)(J). (PSR at p. 13 ¶ 30 and p. 21 ¶ 73.)

The defendant (1) did not submit the fraudulent claims to Medicare himself, (2) did not receive Medicare reimbursement for the claims, and (3) did not have knowledge as to the dollar amount of any claims billed by the co-conspirator companies because he was paid the kickback by a middleman marketer and never knew the value of the claims. As a result, the United States and the defendant agreed as part of the Plea Agreement to consider the actual loss (\$3,493,391.61) rather than the intended loss (\$7,000,000) and have made that recommendation to the Court.

As a result of the different in loss calculations, the recommended Offense Level by the parties and the PSR differ. The United States and the defendant, per the Plea Agreement, recommend a final Offense Level of 25. The PSR recommends a final Offense Level of 27.

Although not an objection, the United States also notes it reported on December 3, 2020 to the Probation Office and the defendant that it had identified a necessary correction in the calculated actual loss amount and restitution from \$3,493,576 to \$3,493,391.61 by erroneous inclusion of non-related claims by the United States in its original calculation. (PSR at p. 23 ¶ 82.)

The United States otherwise has no objections to the PSR.

Respectfully submitted,

DONALD Q. COCHRAN  
United States Attorney for the  
Middle District of Tennessee

/s/Sarah K. Bogni  
Sarah K. Bogni  
Assistant United States Attorney  
Middle District of Tennessee

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served electronically or by mail to Brent Horst, counsel for Defendant, on this, the 4<sup>th</sup> Day of December, 2020.

/s/ Sarah K. Bogni  
Sarah K. Bogni